

## Washington, Audrey

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**From:** News and Information about water quality from the Department of Ecology <ECOLOGY-WATER-QUALITY-INFO@LISTSERV.WA.GOV>  
**Sent:** Wednesday, March 30, 2011 3:12 PM  
**Subject:** March 30, 2011: Update about Department of Ecology efforts to re-address fish consumption rates

### **March 30, 2011: Update about Department of Ecology efforts to re-address fish consumption rates**

The Washington Department of Ecology (Ecology) is continuing its efforts to update the fish consumption rate used to establish cleanup standards at sites being addressed under the Model Toxics Control Act (MTCA). Ecology's Toxics Cleanup Program (TCP) had planned to place the updated fish consumption rate in the MTCA Cleanup Regulation. However, Ecology elected to stop the MTCA rulemaking in response to the Governor's suspension of some rulemaking work. TCP now plans to address this issue through rulemaking as it updates the sediment cleanup provisions in the Sediment Management Standards (SMS).

The focus of the SMS rulemaking is on cleanup actions. However, parts of the SMS cleanup provisions were approved by the U.S. Environmental Protection Agency as Clean Water Act (CWA) standards. In particular, the sediment cleanup standards (Section 570 of the SMS rule) are part of the federally approved water quality standards. Consequently, we are evaluating whether placing an updated fish consumption rate into that section could affect the state's water quality criteria for toxics. Ecology uses the water quality criteria to list waters as impaired under Clean Water Act Section 303(d), as targets in Total Maximum Daily Load (water cleanup) studies, and as the basis of NPDES water quality permits.

TCP staff gave a presentation on this topic at the March 17, 2011, meeting of the Water Quality Partnership. The presentation summarized some of the issues associated with the proposed rulemaking. The presentation is posted online under SMS Rule Revisions at <http://www.ecy.wa.gov/programs/wq/partnership/031711/index.html>.

Ecology is currently evaluating whether there are legal and regulatory issues under the Clean Water Act that are associated with placing a fish consumption rate in the SMS. We will announce information and findings via the Water Quality Information listserv as we progress in this evaluation. To subscribe, go to <http://www.ecy.wa.gov/maillist.html>.

If you have questions about SMS, please contact Dave Bradley of Ecology's Toxics Cleanup Program at [dave.bradley@ecy.wa.gov](mailto:dave.bradley@ecy.wa.gov) or 360-407-6907. For water quality-related questions, please contact Melissa Gildersleeve at [melissa.gildersleeve@ecy.wa.gov](mailto:melissa.gildersleeve@ecy.wa.gov) or 360-407-6461, or Cheryl Niemi at [cheryl.niemi@ecy.wa.gov](mailto:cheryl.niemi@ecy.wa.gov) or 360-407-6440.

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